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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,936	10/22/2003	Jon E. Badcnell	W2100/288328	7697
23370	7590	08/24/2007	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET ATLANTA, GA 30309			OFURUM, NNENNA N	
			ART UNIT	PAPER NUMBER
			2623	
			MAIL DATE	DELIVERY MODE
			08/24/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/690,936	Applicant(s) BADENELL, JON E.	
	Examiner Nnenna N. Ofurum	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>07/01/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

1. The reference listed in the Information Disclosure Statement filed on July 01, 2004 has been considered by the examiner (see attached PTO-1449 form).

Claim Objections

2. **Claim 1** is objected to because of the following informalities:

On lines 2 and 4 of claim 1 "plurality of audio recordings" and "storing the plurality of audio recordings" is unclear to the Examiner because it seems that the audio recordings are being recorded twice. Please clarify. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. **Claim 1** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In **claim 1**, Examiner considers recent video segment and current video segment as being referred to as a video segment.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claim 1** is rejected under 35 U.S.C. 102(e) as being anticipated by Walker (US Patent Number 6,744,922).

Regarding **claim 1**, Walker discloses a method for creating a video program, comprising:

receiving a plurality of audio recordings, each audio recording corresponding to a particular condition (news program) and a particular speaker (news caster) (see fig 1, column 4, lines 7-12, fig 3 and column 5, lines 31-44),

storing the plurality of audio recordings (see fig 4 (15) and column 5, lines 64-66)

receiving a recent video segment, the recent video segment having an associated audio segment and featuring a selected speaker (see fig 6, column 9, lines 57-67, column 10, lines 1-17, fig 3 and column 5, lines 31-44).

receiving a current input, the current input related to at least one condition (see fig 2, column 5, lines 21-30, column 6, lines 15-18, fig 3 and column 5, lines 31-44);

in response to receiving a request for the video program:

converting the current input into a current video segment (see column 6, lines 4-21 and column 5, lines 31-44);

creating a current audio segment corresponding to the current video segment using the stored audio recordings so that the current audio segment includes at least

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one recording that corresponds to the at least one condition and to the selected speaker (see fig 6 and column 9, lines 57-67 and column 10, lines 1-17 fig 3 and column 5, lines 31-44).

combining the recent video segment, including the associated audio segment, the current video segment and the current audio segment into the video program (see fig 4, column 5, lines 58-67 and column 6, lines 1-64).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US Patent Number 6,744,922) and in view of Walsh et al. (US Patent Number 5,952,943).

Regarding **claim 2**, Walker discloses everything claimed as applied above (see *claim 1*). However, Walker fails to disclose the method wherein the request for the video program includes an encoding parameter, further comprising:

encoding the video program using an encoding scheme that corresponds to the encoding parameter.

Walsh et al. discloses the method wherein the request for the video program includes an encoding parameter, further comprising:

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encoding the video program using an encoding scheme that corresponds to the encoding parameter (see abstract, lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walker's invention to include the above mentioned limitation as taught by Walsh et al. for the advantage of controlling the pictures so that an amount of encoded image data of each different picture is within a predetermined value.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claim 3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US Patent Number 6,744,922) and in view of Walsh et al. (US Patent Number 5,952,943).

Regarding **claim 3**, Walker discloses everything claimed as applied above (see *claim 1*). However, Walker fails to disclose the method wherein the request for the video program includes a location parameter, and wherein the current input is related to a location that corresponds to the location parameter.

Walsh et al. discloses the method wherein the request for the video program includes a location parameter, and wherein the current input is related to a location that

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corresponds to the location parameter (see column 3, lines 57-67 and column 4, lines 1-9).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walker's invention to include the above mentioned limitation as taught by Walsh et al. for the advantage of easily retrieving the data.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claim 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US Patent Number 6,744,922) and in view of Walsh et al. (US Patent Number 5,952,943).

Regarding **claim 4**, Walker discloses everything claimed as applied above (see *claim 1*). Walker discloses combining the recent video segment, including the associated audio segment, the current video segment and the current audio segment into the video program (see fig 4, column 5, lines 45-67 and column 6, lines 1-64). However, Walker fails to specifically disclose wherein the recent video segment is encoded, further comprising: decoding the recent video segment.

Walsh et al. discloses wherein the recent video segment is encoded (see column 1, lines 29-30), further comprising: decoding the recent video segment (see fig 2 and column 4, lines 24-32).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walker's invention to include the above mentioned limitation as taught by Walsh et al. for the advantage of performing various effects which may be applied to the audio streams, for example volume control, audio effects etc.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US Patent Number 6,744,922) and in view of Kelly et al. (US Publication Number 2006/0209090).

Regarding **claim 5**, Walker discloses everything claimed as applied above (see *claim 1*). Walker discloses at least one condition (see column 5, lines 31-44). However, Walker fails to specifically disclose wherein the at least one condition corresponds to a weather condition.

Kelly discloses wherein the at least one condition corresponds to a weather condition (see paragraph 0002).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walker's invention to include the above mentioned limitation as taught by Kelly et al. for the advantage presenting current weather conditions.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. **Claims 6, 8-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US Patent Number 6,744,922) and in view of Walsh et al. (US Patent Number 5,952,943).

Regarding **claim 6**, Walker discloses a method for creating a video program, comprising:

storing a plurality of audio recordings, each audio recording corresponding to a particular condition and a particular speaker (see fig 4 (15), column 5, lines 64-66, fig 3 and column 5, lines 31-44),

creating a first video segment from an audio/video input (see fig 1, 6, column 3, lines 64-67, column 4, lines 1-67 and column 5, lines 1-20),

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creating a first video segment from an audio/video input, the video segment including a selected speaker (see fig 3, column 5, lines 31-44, fig 1, column 3, lines 64-67 and column 4, lines 1-12);

creating a first audio segment corresponding to the first video segment from the audio/video input (see fig 3, column 5, lines 31-44, fig 1, column 3, lines 64-67, column 4, lines 1-12 and column 26, lines 4-9);

creating a second video segment from a data input, the second video segment corresponding to a condition (see fig 3, column 5, lines 31-44, fig 1, column 3, lines 64-67, column 4, lines 1-12, and column 18, lines 39-47);

creating a second audio segment corresponding to the second video segment using at least one of the stored audio recordings that correspond to the condition and the selected speaker (see fig 3, column 5, lines 31-44, fig 1, column 3, lines 64-67 and column 4, lines 1-12);

combining the first video segment, the first audio segment, the second video segment and the second audio segment into the video program (see fig 4, column 5, lines 58-67 and column 6, lines 1-64). However, Walker fail to specifically disclose receiving a request for the video program, the request including an encoding parameter and encoding the video program using an encoding scheme that corresponds to the encoding parameter.

Walsh et al. discloses receiving a request for the video program, the request including an encoding parameter (see abstract, lines 1-9) and encoding the video

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program using an encoding scheme that corresponds to the encoding parameter (see abstract, lines 1-2).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walker's invention to include the above mentioned limitation as taught by Walsh et al. for the advantage of controlling the pictures so that an amount of encoded image data of each different picture is within a predetermined value.

Regarding **claim 8**, Walsh et al. and Walker discloses everything claimed as applied above (see *claim 6*). Walker discloses the method wherein the first video segment corresponds to a particular time period (see fig 6 and column 9, lines 57-67).

Regarding **claim 9**, Walsh et al. and Walker discloses everything claimed as applied above (see *claim 6*). Walker discloses the method wherein creating a first video segment from an audio/video input (see fig 1, 6, column 3, lines 64-67, column 4, lines 1-67 and column 5, lines 1-20). However, Walker fails to specifically disclose decoding the audio/video input.

Walsh et al. discloses decoding the audio/video input (see fig 2, 9 and column 4, lines 24-32).

Regarding **claim 10**, Walsh et al. and Walker discloses everything claimed as applied above (see *claim 6*). Walker discloses the method further comprising:

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storing the second audio segment and the second video segment (see fig 4 (15), column 5, lines 57-66 and fig 1-2).

Regarding **claim 11**, Walsh et al. and Walker discloses everything claimed as applied above (see *claim 6*). Walsh et al. discloses the method wherein the request for the video program includes a location parameter, and wherein the current input is related to a location that corresponds to the location parameter (see column 3, lines 57-67 and column 4, lines 1-9).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker (US Patent Number 6,744,922) and in view of Walsh et al. (US Patent Number 5,952,943) as applied to *claim 6* above, and further in view of Kelly et al. (US Publication Number 2006/0209090).

Regarding **claim 7**, Walker and Walsh et al. discloses everything claimed as applied above. Walker discloses at least one condition (see column 5, lines 31-44). However, Walker fails to specifically disclose wherein the at least one condition corresponds to a weather condition.

Kelly discloses wherein the at least one condition corresponds to a weather condition (see paragraph 0002).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walker and Walsh et al's invention to include the above mentioned limitation as taught by Kelly et al. for the advantage presenting current weather conditions.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. **Claims 12-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Walsh et al. (US Patent Number 5,952,943) in view of Walker (US Patent Number 6,744,922).

Regarding **claim 12**, Walsh et al. discloses a system for creating a video program comprising:

a plurality of decoders supporting a plurality of encoding schemes, wherein a first decoder receives a first video input and decodes the first video input to create a first video segment (see fig 8 and column 8, lines 12-22);

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a plurality of converters, wherein a first converter receives a data input that includes data related to a condition and creates a second video segment (see fig 1 and column 3, lines 42-56);

a linear frame buffer (see column 4, lines 10-23);

a plurality of encoders for receiving the video program from the linear frame buffer and encoding the video program (see column 6, lines 22-33). However, Walsh et al. fail to specifically disclose a selected speaker, a condition that creates a second video segment, assembling frames from the first video segment and frames from the second video segment to create the video program, an audio database that stores a plurality of audio recordings, each audio recording corresponding to a particular condition and a particular speaker, wherein the system creates an audio segment that includes at least one of the audio recordings that corresponds to the condition and the selected speaker to accompany the second video segment.

Walker discloses a selected speaker (see column 5, lines 34-37)

a condition that creates a second video segment (see fig 3 and column 5, lines 31-44)

assembling frames from the first video segment and frames from the second video segment to create the video program (see fig 3 and column 5, lines 31-44)

an audio database that stores a plurality of audio recordings, each audio recording corresponding to a particular condition and a particular speaker (see fig 1, 2, 3, column 3, lines 64-67, column 4, lines 1-12 and column 5, lines 21-44);

wherein the system creates an audio segment that includes at least one of the audio recordings that corresponds to the condition and the selected speaker to accompany the second video segment (see fig 3 and column 5, lines 31-44).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walsh et al's invention with the above mentioned limitation as taught by Walker for the advantage of identifying and matching the appropriate video to the appropriate audio.

Regarding **claim 13**, Walsh et al. and Walker discloses everything claimed as applied above (see *claim 12*). Walker discloses the system further comprising a video database for storing the second video segment (see fig 4, column 5, lines 57-66, figs 1-2).

Regarding **claim 14**, Walsh et al. and Walker discloses everything claimed as applied above (see *claim 12*). Walsh et al. discloses the first decoder (see fig 2 and 8). However, Walsh et al. receiving the first video input from a database.

Walker discloses receiving the first video input from a database (see fig 1-2, 4 and column 6, lines 22-26).

Regarding **claim 15**, Walsh et al. and Walker discloses everything claimed as applied above (see *claim 12*). Walsh et al. discloses the first decoder (see fig 2 and 8). However, Walsh et al. fails to specifically disclose receiving the video input in real-time.

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Walker discloses receiving the video input in real-time (see column 13, lines 47-51).

Citation of Pertinent Prior Art

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

"Video Segmentation with the Assistance of Audio Content Analysis" IEEE, pages 1507-1510.

Liu et al. (US Publication Number 2004/0030550)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nnenna N. Ofurum whose telephone number is 571-270-1663. The examiner can normally be reached on Monday - Friday 7:30 AM-5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NNO/nno
August 16, 2007



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